

SEP. 15. 2005 11:09AM

513 241 6234

RECEIVED
CENTRAL FAX CENTER NO. 9268 P. 11

SEP 15 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/800,624
Filed: March 7, 2001
Applicant: Gassenmeier et al.
Title: **ORGANOLEPTIC COMPOSITIONS: USE OF 3-MERCAPTO ALKANOIC ACID ESTERS AS FLAVOR INGREDIENTS**
Conf. No.: 7473
Group Art Unit: 1761
Examiner: Wong
Atty Docket: GRISA-710

Cincinnati, Ohio 45202

September 2, 2005

DECLARATION OF CHRISTOPHE GALOPIN
PURSUANT TO 37 CFR §1.132

I, CHRISTOPHE GALOPIN, declare as follows:

1. I am a named inventor in the above-identified patent application.
2. I hold both Ph.D. and M.S. degrees in Organic Chemistry from Cornell University, Ithaca NY. I also hold a Master of Science degree from the Pierre and Marie Curie Institute, Paris, France. I have twelve years of experience in organic synthesis, with six years specializing in the synthesis of flavor and fragrancing compounds, which is the subject of this application. I have read the outstanding Office Action and the references cited, and understand the Examiner's position.
3. I respectfully disagree that "Once the art has recognized the use of mercaptans as flavorants, the use of any and all mercaptans as flavorants would be no more than obvious to one of skill in the art". In contrast, the art requires the flavorant properties of each

mercaptan to be evaluated by a trained flavor panel using a multistep process to determine which mercaptans are flavorants and which are not. A flavor compound cannot be predicted based on the compound's chemical structure. For example, the presence of a sulfur atom in a compound does not indicate the compound can be used as a flavorant.

4. Specifically, each flavor compound, including the claimed 3-mercptoalkanoic acid esters, is tasted, swallowed, and smelled by trained individuals who comprise a flavor panel. Each flavorist on the panel indicates his/her opinion on the compound's suitability as a flavorant. I provided the Examiner with a flow diagram illustrating this multistep evaluation process, a copy of which was attached to the Interview Summary.

5. In further support of my position that one skilled in the art would not agree that recognition of mercaptans as flavorants renders obvious all mercaptans as flavorants, I provide the following non-exclusive list of compounds. Each of the listed compounds is a mercaptan, is found in food, but is not a flavorant (does not possess any organoleptic value):

L-cysteine
2-mercptoethylamine
6-mercaptopurine
dithiothreitol
12-mercaptodecanoic acid
alpha-dihydrolipoic acid
stearylmercaptane
pantethein
coenzyme-A

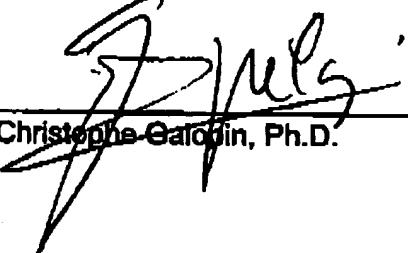
6. In further support that the claimed methods are not obvious, I assert that some mercaptans impart meaty flavors, some mercaptans impart a green and/or fatty note, and some mercaptans, such as those claimed, impart a fruity note in the absence of a green

and/or fatty note, none of which can be predicted from the compound's structure. The claims recite this organoleptic property, namely, a fruity note in the absence of a green and/or fatty note.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the subject application or any patent issued thereon.

09.06.05

Date


Christophe Galodin, Ph.D.